

ORDINANCE NO. 2008 – 041

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE KNOWN AS THE PALM BEACH COUNTY MEDICAL EXAMINER ORDINANCE, AMENDING PALM BEACH COUNTY CODE CHAPTER 13 (Ord. No. 99-7); AMENDING SECTION 4, PROVIDING FOR MEDICAL EXAMINER ASSOCIATES; AMENDING SECTION 6, PROVIDING FOR FEES, COMPENSATION, AND EXPENSES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County is a home rule Charter County, pursuant to Article VIII, Section 1 of the Florida Constitution (1968); and

WHEREAS, Chapter 125, Florida Statutes, authorizes the Board of County Commissioners of Palm Beach County to adopt ordinances necessary for the exercise of its powers; and

WHEREAS, Chapter 406, Florida Statutes, creates medical examiner districts within the State of Florida and sets forth the procedures for appointment of a District Medical Examiner for Palm Beach County; and

WHEREAS, Chapter 406, Florida Statutes, authorizes the appointment of a Medical Examiner for charter counties by local ordinance; and

WHEREAS, Section 406.17, Florida Statutes, provides that Medical Examiners established pursuant to the provisions of an ordinance enacted by a home rule Charter County shall also serve as the District Medical Examiner under Chapter 406, Florida Statutes; and

WHEREAS, the Board of County Commissioners of Palm Beach County finds and declares that the local appointment of a Medical Examiner is in the best interest of the citizens of Palm Beach County; and

WHEREAS, it is the intent of the Palm Beach County Board of County Commissioners to establish a fee to be charged by the Medical Examiner for the cremation, dissection, and burial-at-sea of deceased bodies of services rendered in providing approvals.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1 **Section 1. SHORT TITLE: PURPOSE.**

2 A. This Ordinance shall be known as the "Palm Beach County Medical
3 Examiner Ordinance."

4 B. The primary purpose of this Ordinance is to provide for the local
5 appointment of the Medical Examiner by the Board of County
6 Commissioners.

7 **Section 2. MISCELLANEOUS PROVISIONS.**

8 A. The recitations set forth in the "WHEREAS" paragraphs above are
9 incorporated herein by reference as findings upon which this Ordinance
10 is based.

11 B. This Ordinance shall be liberally construed to affect the purpose set forth
12 herein.

13 C. Notwithstanding anything herein to the contrary, the Medical Examiner
14 shall comply with all applicable provisions of Chapter 406, Florida
15 Statutes, and Chapter 11G, Florida Administrative Code, adopted herein
16 by reference as the same now exist and may hereafter be amended.

17 **Section 3. AUTHORITY.**

18 This Ordinance is adopted pursuant to Article VIII, Section 1 of the Florida
19 Constitution, the Palm Beach County Charter, Chapter 125, Florida Statutes, and
20 Chapter 406, Florida Statutes.

21 **Section 4. MEDICAL EXAMINER; ASSOCIATES.**

22 A. The Board of County Commissioners shall appoint a Medical Examiner
23 who shall serve as the District 15 Medical Examiner. In making its
24 appointment, the County may seek the assistance of the State of Florida
25 Medical Examiner's Commission. The Board of County Commissioners
26 shall establish the term of appointment of the Medical Examiner.

27 B. The Medical Examiner shall be a physician in Pathology, licensed or
28 license eligible in the State of Florida.

29 C. The Medical Examiner may appoint such Associate Medical Examiners
30 as are reasonably necessary to fulfill the duties set forth herein. The
31 County may permit the Medical Examiner to employ, contract or agree

- 1 independently with each Associate Medical Examiner, and be
2 responsible for their remuneration (including all taxes, benefits and
3 withholding). However, the County may opt to employ, contract or agree
4 independently to compensate, or confer benefits on any Associate
5 Medical Examiner, except as may hereafter be provided. All Associate
6 Medical Examiners shall serve at the pleasure of the Medical Examiner.
- 7 D. The Medical Examiner and his/her Associate Medical Examiners may
8 engage in the private practice of medicine or surgery, if licensed
9 pursuant to Chapter 458 or Chapter 459, Florida Statutes, provided such
10 private practice does not interfere with their duties as prescribed herein.
- 11 E. The Medical Examiner and all Associate Medical Examiners are public
12 officers for purposes of Part III of Chapter 112, Florida Statutes, and the
13 standards of conduct prescribed therein.
- 14 F. The County shall not be deemed to assume any liability for the acts,
15 omissions or negligence of the Medical Examiner, Associate Medical
16 Examiners and their agents, servants and employees (if any) unless the
17 Medical Examiner and Associate Medical Examiners are considered
18 employees of the Board of County Commissioners.
- 19 G. The County Administrator or his/her designee shall act as an
20 administrative liaison to the Medical Examiner. The Liaison shall ensure
21 that the Medical Examiner is provided all reasonable supplies, support
22 staff and equipment necessary for the performance of the duties of the
23 Medical Examiner.

24 **Section 5. FUNCTIONS AND DUTIES OF THE MEDICAL EXAMINER.**

- 25 A. The Medical Examiner shall be responsible for the performance of all
26 functions, duties and obligations of the District Medical Examiner set
27 forth in Chapter 406, Florida Statutes, and Chapter 11G, Florida
28 Administrative Code.
- 29 B. The Medical Examiner shall maintain liaison with associated agencies
30 and news media.

- 1 C. The Medical Examiner shall attend death scenes when requested, and
2 as necessary.
- 3 D. The Medical Examiner and Associate Medical Examiners shall testify in
4 court, give depositions and appear before the Grand Jury, when
5 requested, for criminal trials without additional compensation. The
6 Medical Examiner and Associate Medical Examiners may receive
7 compensation for such civil trial activities as provided by law and
8 authorized by the Board of County Commissioners.
- 9 E. The Medical Examiner shall submit an annual budget to the Board of
10 County Commissioners.

11 **Section 6. FEES, COMPENSATION AND EXPENSES.**

- 12 A. The Medical Examiner shall receive such fees, compensation and
13 expenses as set forth by the Board of County Commissioners.
- 14 B. The Board of County Commissioners, in its sole discretion, shall provide
15 annual funding appropriate to cover all approved fees, compensation,
16 and expenses of the Medical Examiner, subject to the County's annual
17 budget process.
- 18 C. Autopsy and laboratory facilities utilized by the Medical Examiner or
19 his/her Associates may be provided on a permanent or contractual basis
20 by the County.
- 21 D. The Medical Examiner of Palm Beach County shall charge a fee for
22 services rendered to any person in lawful control of a decedent's body,
23 who requests the Medical Examiner, pursuant to Section 406.11(1)(c),
24 Florida Statutes, to approve the performance of a cremation, donation to
25 a medical school for dissection, or burial at sea. The fee shall be in such
26 amount as shall be established by resolution of the Board of County
27 Commissioners. All fees collected pursuant to a resolution enacted
28 pursuant to this Ordinance shall be used exclusively for defraying the
29 Medical Examiner's office's cost in providing cremation, dissection, and
30 burial-at-sea approvals.

31

1 **Section 7. PROFESSIONAL LIABILITY INSURANCE.**

2 If considered employees of the Board of County Commissioners, the Medical
3 Examiner and Associate Medical Examiners shall be provided with professional liability
4 insurance in an amount to be determined by the Board of County Commissioners.
5 The fees for such insurance shall be paid from funds appropriated by the Board of
6 County Commissioners, in accordance with Sections 6A. and 6B. of this Ordinance. If
7 considered independent contractors, the Medical Examiner and Associate Medical
8 Examiners may be required to obtain professional liability insurance in an amount to
9 be determined by the Board of County Commissioners.

10 **Section 8. REMOVAL AND SUSPENSION.**

11 A. If considered an independent contractor, the Medical Examiner may be
12 removed or suspended by the Board of County Commissioners upon at
13 least thirty (30) days written notice. If considered an employee of the
14 Board of County Commissioners, the Medical Examiner shall serve at
15 the pleasure of the County Administrator. As set forth herein, grounds
16 for removal or suspension shall include, but not be limited to:

- 17 1. malfeasance, misfeasance or nonfeasance;
18 2. negligence in the handling of the duties and
19 responsibilities of the Medical Examiner;
20 3. a conviction, plea of guilty or nolo contendere of a
21 felony; or
22 4. removal or suspension through final agency action of the
23 Medical Examiner's Commission, pursuant to Section 406.075(1), Florida
24 Statutes, as the same now exists and may hereafter be amended.

25 B. In the event of removal, the Medical Examiner's appointment shall
26 automatically expire upon the effective date of the removal. During any
27 period of suspension, the Board of County Commissioners may appoint
28 a competent physician to act in his/her stead.

29 **Section 9. REPEAL OF LAWS IN CONFLICT.**

30 All local laws and ordinances in conflict with any provision of this Ordinance are
31 hereby repealed to the extent of any conflict.

1 **Section 10. SEVERABILITY.**

2 If any section, subsection, paragraph, sentence, clause, phrase, or word of this
3 Ordinance is for any reason held by the Court to be unconstitutional, inoperative or
4 void, such holding shall not affect the remainder of this Ordinance.

5 **Section 11. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

6 The provision of this Ordinance shall become and be made a part of the code of
7 laws and ordinances of Palm Beach County, Florida. The Sections of the Ordinance
8 may be renumbered or relettered to accomplish such, and the word "ordinance" may
9 be changed to "section," "article," or any other appropriate word.

10 **Section 12. EFFECTIVE DATE.**

11 The provisions of this Ordinance shall become effective upon filing with the
12 Department of State.

13 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm
14 Beach County, Florida on the 23rd day of September, 2008.

15 SHARON R. BOCK, CLERK &
16 COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

17
18
19 By: *Judith L. Bock*
20 Deputy Clerk

By: *Addie L. Greene*
Addie L. Greene, Chair

21
22 APPROVED AS TO FORM AND
23 LEGAL SUFFICIENCY

24
25
26 By: *[Signature]*
27 County Attorney

28
29 EFFECTIVE DATE: Filed with the Department of State on the 29th day of
30 September, 2008.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk and Comptroller
certify this to be a true and correct copy of the original
filed in my office on September 23, 2008
dated at West Palm Beach, Florida, on 10/7/08
By: *Diane Bock*
Deputy Clerk
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA